KS ST s 66-2015
K.S.A. § 66-2015

KANSAS STATUTES ANNOTATED
CHAPTER 66. PUBLIC UTILITIES
ARTICLE 20. TELECOMMUNICATIONS

Current through End of 1997 Reg. Sess.

66-2015. Preemption of act.

The commission shall not enforce any provision of this act nor any order entered by authority of this act which is specifically preempted by the federal act.

History: L. 1996, ch. 268, § 18; July 1.

<General Materials (GM) - References, Annotations, or Tables>

K. S. A. § 66-2015

KS ST § 66-2015

B

12/27/96

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Timothy E. McKee, Chair
Susan M. Seltsam
John Wine

In the Matter of a General Investigation Into Competition within the Telecommunications Industry in the State of Kansas.	))))	Docket No. 190,492-U 94-GIMT-478-GIT

ORDER

NOW the above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

SUMMARY OF CONTENTS

I. BACKGROUND

A. HISTORY

1. On April 22, 1994, the Commission issued an Order establishing a generic docket "to investigate the level of competition for each regulated or flexibly

regulated telecommunications service within the telecommunications industry and other issues related to competition within the telecommunications industry." (Order dated April 22, 1994, at 14).

2. On August 17, 1994, the Commission issued an Order indicating deliberation of issues in this docket would be accomplished in two phases. Phase I would involve certain policy determinations pertaining to competition in the telecommunications industry. Phase II would involve implementation issues, including service pricing and costing issues. (Order dated August 17, 1994, at 2).

3. On May 5, 1995, the Commission issued its decision in Phase I. The Commission determined those changes in state regulatory structure necessary to provide a timely yet orderly transition to a competitive local exchange telecommunications market.

4. On April 4, 1996, the Commission issued an Order scheduling the Phase II competition hearing to be held August 12 - 15, 1996.

5. On April 4, 1996, the Commission issued another Order in this same docket and determined that a fund should be created to administer the collection and distribution of universal service support payments including a Lifeline program. Such fund should be called the Kansas Universal Service Fund (KUSF). The Commission stated that high cost rural service, low income customers who are affected by rate rebalancing, and residential customers who could experience rate shock should be supported by the KUSF. (Order dated April 4, 1996, at 6, 12). The Commission determined the need to have a fund administrator who should be a

neutral third party responsible to the Commission. The Commission stated "Universal Service" is the group of services that local exchange companies (LECs) and alternative LECs (ALECs) offer to customers. "Basic Service" is a list of what consumers can expect when obtaining basic telephone service. (Order dated April 4, 1996, at 16). The Commission also determined that it is appropriate to accomplish a defined rebalancing of rates. (Order dated April 4, 1996, at 6-7).

6. The Commission further determined that it should continue its policy of requiring statewide average toll rates. However, the Commission noted that with the reduction in access and the similarity of the access charge levels among LECs, the pressure to deaverage rates should be relieved. (Order dated April 4, 1996, at 16).

7. On May 10, 1996, the Commission issued an Order on reconsideration in which it determined that various issues in the April 4, 1996 Order would be addressed in the Phase II proceeding: rate rebalancing, access rate reduction, end user common line charge (EUCL), assessment on toll minutes of use (MOU), additional rate rebalancing, subsequent rate rebalancing, support recipients, initial support, and managing future support.

8. On June 17, 1996, the Commission issued an Order scheduling four public hearings to be held across the state. The Commission determined that public hearings on the issue of rate rebalancing were necessary because of the potential for increased rates for local telephone service and decreases in long distance rates as a result of the revenue neutrality mandated by House Bill 2728. (HB 2728, State Act or Kansas Act). The public hearings were also necessary for the purpose of receiving

public comment from telecommunications customers with regard to the proposed rate changes and other relief sought. The Commission directed all telecommunications companies to notify their customers of the hearings in the form of a billing insert during the July 1996 billing cycle and a newspaper advertisement in newspapers having general circulation in the counties where the telecommunications companies provide service.

9. On June 26, 1996, the Commission issued an Order amending the June 17, 1996 Order and determined that the LECs should generate an affidavit listing the newspapers and counties in which the advertisement was placed and the date on which the advertisement was published.

10. On July 1, 1996, the Commission issued an Order and determined that although Sections 3(c) and 5(b) of the State Act direct the Commission to initiate proceedings to adopt guidelines in regards to the issues outlined in each section, the Commission currently has open dockets which address such issues (Docket Nos. 190,492-U and 191,206-U). The Commission determined that a proceeding to adopt guidelines regarding universal service and rural entry requirements should be consolidated into Docket No. 190,492-U and a proceeding to adopt guidelines regarding quality of service should be consolidated into Docket No. 191,206-U.

11. On August 7, 1996, CMT Partners, Inc., AirTouch Cellular of Kansas, Inc. and Topeka Cellular Telephone Company, Inc. (collectively referred to as the "Wireless Providers") petitioned to intervene in the present docket for the limited purpose of: a) cross-examining witnesses; and b) filing a brief on issues relevant to

wireless telecommunications service providers which arise during the proceedings. The Wireless Providers asserted that they sought intervention pursuant to K.A.R. 82-1-225(a) or K.A.R. 82-1-225(b). On August 12, 1996, the Commission issued a bench ruling granting intervention to the Wireless Providers.

12. On August 12, 1996, Wamego Telephone Company, Inc. (Wamego Telephone) filed an Affidavit demonstrating compliance with publication of the newspaper notice of the public hearing. On August 13, 1996, Moundridge Telephone Company, Inc. (Moundridge Telephone) filed a similar Affidavit. On September 5 and 17, 1996, Sprint Communications Company, L.P. (Sprint) and United Telephone Company of Kansas (United) (collectively referred to as "Sprint/United") filed their Affidavit and on September 20, 1996, Southwestern Bell Telephone Company (SWBT) filed its Affidavit demonstrating compliance.

B. PHASE II HEARING/APPEARANCES

13. The technical hearing was held August 12 - 15, 1996, with the Commission presiding. SWBT appeared by Michael C. Cavell and William R. Drexel; the Independent Telecommunications Group, Columbus, et al. (Columbus) appeared by Thomas E. Gleason, Jr.; the State Independent Alliance appeared by Mark E. Caplinger and James M. Caplinger; Sprint/United appeared by Stephen D. Minnis; AT&T Communications of the Southwest (AT&T) appeared by Robert A. Fox and Dana Bradbury Green; MCI Telecommunications Corporation (MCI) appeared by Michael Lennen; CompTel of Kansas (CompTel) appeared by James R. Roth; Kansas Cable Telecommunications Association (KCTA) appeared by Victor A.

Davis, Jr.; Kansas City Fiber Network, L.P. (KC Fiber) and Multimedia Hyperion Telecommunications (MHT) appeared by Mark P. Johnson; KIN Network of Salina appeared by Jay Emler; the Citizens' Utility Ratepayer Board (CURB) appeared by Walker Hendrix and Edward E. Peterson; CMT Partners, Inc. (CMT), Topeka Cellular Telephone Co., Inc. (Topeka Cellular) and AirTouch Cellular of Kansas, Inc. (AirTouch Cellular) appeared by Marc E. Elkins; the Commission Staff (Staff) and the public generally, appeared by Eva Powers, Janette Corazzin and Marianne Deagle.

14. On August 13, 1996, Mark Johnson, counsel for Sprint Spectrum, L.P. (Sprint Spectrum), entered his appearance and orally moved its intervention. No party voiced objection and the Commission granted such intervention.

C. PETITION FOR APPROVAL AND ADOPTION OF STIPULATION AND AGREEMENT FILED BY COLUMBUS AND STATE INDEPENDENT ALLIANCE

15. On December 2, 1996, Columbus and State Independent Alliance (collectively referred to as "Petitioners") filed a Petition for Approval and Adoption of Stipulation and Agreement. The Stipulation and Agreement (S&A) was adopted by thirty-three (33) rural telephone companies providing local service in the state of Kansas. Petitioners stated that the S&A "provides for equitable and nondiscriminatory recovery from the stipulating parties' customers of these parties' contributions to the KUSF." (Petition at 1). "The terms of the S&A will limit and reduce possible increases in charges to customers of rural telephone companies for

the preservation and advancement of universal telephone service at reasonable and affordable rates." (Petition at 1-2).

16. Petitioners asserted that the S&A's purpose is principally to provide contributions to the KUSF from rural telephone companies, and to recover such contributions from their customers, on a per-line basis applicable equally to all such companies and ratepayers. Petitioners stated "it is unclear that the legislature intended rural companies with low local service rates to increase those rates by $1.00 per month and additionally to impose the full scope of charges on their customers necessary to recover these companies' KUSF contributions." (Petition at 5). Petitioners concluded that in order to address the issue of multiple recovery from customers the S&A proposes, for those companies effectively required to raise their local rates to the statewide average, that customer charges for recovery of KUSF contributions be recognized as rate increases complying with the requirements of Section 6(d) of the State Act.

D. LEGISLATION

17. State and federal telecommunications laws were enacted this year in response to changes occurring in the telecommunications arena nationwide.

18. The Telecommunications Act of 1996 (Federal Act) establishes a pro-competitive, deregulatory policy framework for telecommunications. Generally, the Federal Act opens local telecommunications to competition by establishing ground rules for carrier interconnection and Universal Service; preempts State and local entry barriers; removes the remaining line-of-business restrictions in the

Modification of Final Judgment and authorizes utility entry into telecommunications.

19. The State Act establishes a framework that calls for the implementation of competition in compliance with the new Federal Act and in a manner which accommodates the interest of Kansans. The State Act declares a public policy of ensuring access to a first class telecommunications infrastructure at an affordable price; ensuring consumers receive benefits of competition; promoting access to a full range of telecommunications services that are comparable in both urban and rural areas; advancing development of infrastructure that is capable of supporting public safety, telemedicine, distance learning, access to the Internet, etc.; and promoting protection of consumers from fraudulent business practices.

20. The primary action items of the State Act call for: establishment of quality of service standards; establishment of a KUSF; establishment of a Kansas Lifeline Service Program (KLSP); establishment of a funding mechanism to provide telecommunications equipment for persons with special needs and funding for the Dual Party Relay Services for speech and/or hearing impaired; establishment of regulatory reform plans for LECs; implementation of a discounted toll plan for use in accessing the Internet in areas where a local Internet provider is not yet located; and adoption of any additional guidelines that are necessary to parallel the federal standards in "slamming" enforcement.

21. The Commission is charged with oversight and implementation of the State Act. Addressed in the Competition Docket's Phase II are the issues of the

KUSF, KLSP, reductions in access charges, regulatory reform plans for LECs, consumer protection and information.

II. SUMMARY OF PARTIES' POSITIONS

A. KUSF

1. RATE REBALANCING

22. SWBT proposes to increase local rates by $4.50 over three years to rebalance as required by the State Act. According to SWBT, this rebalancing proposal: a) will help keep the KUSF small and thus sustainable (approximately $35 million initially); b) will provide a larger per minute toll rate reduction than otherwise would occur with a larger KUSF; c) is consistent with prior actions at the federal level; and d) is appropriate in light of the increasingly competitive local service market. (Cooper, Tr. at 2151-47 to 2151-48).

23. According to SWBT, revenue neutral rate rebalancing would be accomplished by: reducing intrastate switched access rates to the interstate level over three years; imputing the switched access reductions into SWBT's intraLATA toll service; increasing residence and single-line business local exchange service by $4.50 over three years ($1.50 per year); increasing local coin service to $.35 per call; eliminating the free directory assistance call allowance and the HNAP (Home Numbering Area Plan) offset associated with directory assistance; eliminating free directory assistance calling from coin phones; establishing a Lifeline Service Program for Kansas consumers; and recovering any revenue shortfall as a result of revenue neutral rate rebalancing from the KUSF. (Brown, Tr. at 1840-4 to 1840-5).

24. SWBT states the $4.50 increase for both business and residential customers when fully phased in would offset approximately $58.8 million of the access and toll decrease for SWBT. SWBT also suggests that other phased in local exchange rate changes for coin and directory assistance would offset an additional $7.7 million of the toll and access decrease. (Cooper, Tr. at 2151-60 to 2151-61).

25. Sprint/United state the Commission rebalance local rates, dollar-for-dollar, to bring exchange prices in line with the federal benchmark affordable price. Sprint/United maintain if the Commission does not completely rebalance rates during any transition to cost-based prices, the KUSF should adopt a support plan that mirrors the Federal Communications Commission (FCC) plan, except that the KUSF would provide for contributions from all intrastate carriers based on intrastate revenues. (Harper, Tr. at 2633-18).

26. Staff proposes to initially rebalance local and access rates to reduce the intrastate access rate to the interstate access rate based on November 1, 1996 rate levels. Staff recommends that Billing and Collection rates for independent local exchange companies (ILECs) be reduced $.05 per message since they also provide substantial support to rural areas. This reduction is included in Staff's KUSF calculations. Staff includes all business lines in the rebalance calculation rather than excluding some select business services. (HB 2728 § 6(c); Lammers, Tr. at 2966-15).

27. Staff proposes that LECs increase their local service rates by an amount approximately equal to 14 percent of their local service revenues. The LECs would keep that amount rather than paying it into the KUSF and receiving a payment

which includes an offset of that amount from the fund. Staff's plan can be summarized as follows:

a) SWBT's KUSF assessment would be $4.55 per access line at the end of three years. This amount is large enough to remove SWBT as a recipient of the KUSF. United would also rebalance $4.55 to its customers. For the ILECs, the estimate is an average of $1.72 per access line. (Lammers, Tr. at 2966-15).

b) LECs would avoid further KUSF contributions unless the percentage of assessment reached 14.1 percent. (Lammers, Tr. at 2966-16).

c) Companies defined as telecommunications carriers, including LECs providing toll service, and wireless providers would be assessed an amount equal to 9 percent of their retail revenues. The assessment amounts would be paid into the KUSF. (Lammers, Tr. at 2966-17).

d) Staff's proposal would reduce the size of the KUSF from $111 million to less than $30 million.

e) Staff asserts its proposal is equitable and non-discriminatory since all providers of telecommunications services contribute to universal service, even though the larger assessment on local revenues is not paid into the fund, but is retained by the company and off-set against the amount the company otherwise would receive.

28. AT&T asserts that the Staff and SWBT plans leave all subsidies implicit to SWBT and violate 47 U.S.C. § 254(c) of the Federal Act. Section 254(c) sets guidelines and accounting standards to prevent cross-subsidization of the competitive services by non-competitive services. (AT&T Post-Hearing Brief at 11).

29. MCI's position is that "each telecommunications carrier, telecommunications public utility and wireless telecommunications service provider be required to pay into the fund." (Klaus, Tr. at 3121-9). MCI does not recommend a specific rate for local service. However, MCI maintains that should the Commission deem it appropriate to rebalance local rates (as authorized by the

Kansas Legislature) or establish an EUCL as previously decided in the Commission's April 4, 1996 Order, local exchange rates should not exceed the lower of the nationwide average rate of $18.00 or total service long run incremental cost (TSLRIC). (Klaus, Tr. at 3121-5).

30. MCI argues that if SWBT is not drawing from the KUSF, as proposed by Staff, the KUSF will not be paying any support for rural exchanges to SWBT nor to any ALEC serving residential customers in those exchanges. As a consequence, the potential for effective competition to serve higher cost areas in SWBT's service territory is suppressed, if not extinguished, and it does not achieve the competitive neutrality required by the Kansas Act. (MCI Post-Hearing Brief at 14).

31. The ILECs state that in the case of LECs other than rural telephone companies, rebalancing can be accomplished without demand on the fund by allowing reasonable local rate increases. (Krehbiel, Tr. at 2528-6).

32. KCTA asserts that it is critical that the Federal and State Acts be implemented in the most direct, accountable, and competitively neutral manner. This requires that all carriers pay on an equitable basis and have the opportunity to receive support from the fund. (Kravtin, Tr. at 2455-54).

33. KCTA also asserts that under Staff's proposal the incumbent LECs would not be required to make explicit payments into the KUSF unless the assessment rate on retail billed revenues for the other participants rises above 14.1 percent. Permitting some carriers to make "in-kind" contributions or some other form of non-explicit contribution is discriminatory when all others must make

explicit payments to the fund. In order to be equitable and non-discriminatory and to have the fund work properly, all contributions by each and every carrier should be explicit in nature. (KCTA Post-Hearing Brief at 20).

34. KC Fiber states that under Staff's proposal a nine percent assessment on retail revenues would be paid into the KUSF by toll providers, wireless providers and "others." Incumbent LECs, such as SWBT and United, would not have to make any contribution to the KUSF for their local revenue or other revenue (excluding toll).[5] KC Fiber contends that Staff's proposal does not state that ALECs are included in the definition of "others." ALECs are required to make a contribution to the KUSF for their local revenue and other revenue. KC Fiber asserts if that is the case, the incumbent LEC would have a considerable advantage over competitors. (Hollingsworth, Tr. at 3114-8 to 3114-9).

35. Sprint Spectrum argues that it should be exempt from contributing to the KUSF because of federal preemption. (Sprint Spectrum Post-Hearing Brief at 4).

36. The Wireless Providers argue that Staff's plan confuses and intermingles the concepts of rate rebalancing and support for universal service in a manner not permitted under the statute. According to the Wireless Providers, Staff's plan fails to satisfy the statutory requirement of Section 9(b) of the State Act because it excludes LECs from contributing to the KUSF. (Wireless Providers Post-Hearing Memorandum at 2-3).

37. CURB states that revenue neutrality for each of the three years of rate rebalancing should be established using base year (Year 1) revenues for the twelve months ending September 30, 1996:

a) Prior to any increases in basic local rates, the Commission should first authorize increases in other "local residential and business service rates" as part of the revenue neutrality element of rate rebalancing. (Ostrander, Tr. at 2684-19).

b) For Years 2 and 3 of rate rebalancing, any subsequent growth in other "local residential and business service rates" which were not included in Year 1 rate rebalancing should be authorized as offsets to any proposed increases in basic local rates (and if there are none then these should offset the KUSF).

c) For Sprint/United, the Federal Universal Service High Cost Funds (FUSHCF) should be directly offset against the incremental cost of basic local service prior to determining the amount of funds going to the KUSF.

d) For ILECs, if FUSHCF are not used to directly offset the incremental cost of basic local service, then the dollars allocated to KUSF should be reduced by these amounts.

e) If Yellow Page revenues are not used as a direct offset to the incremental cost of basic local residential and business services, then the KUSF should be reduced by the amount of Yellow Page revenues. (Ostrander, Tr. at 2684-20).

38. CURB states in its brief that the standard be implemented to minimize basic rate increase and to assure that all "residential and local service rates", without regard to classification, bear equal percentage contributions to Universal Service. (CURB Post-Hearing Brief at 3).

2. <u>METHODOLOGY FOR FUNDING THE KUSF</u>

39. Several parties propose that the KUSF be funded on the basis of a surcharge applied to toll MOU or "retail toll revenue." Those parties include SWBT

(Cooper, Tr. at 2151-31), Columbus (Krehbiel, Tr. at 2528-4), the State Independent Alliance (Mikesell, Tr. at 2589-13) and Sprint Spectrum (Sprint Spectrum Post-Hearing Brief at 4).

40. Sprint/United acknowledge the need for state-specific universal service support where actual exchange service prices are below the federal benchmark affordable price and below the economic cost of providing the service. Mr. Harper, witness for Sprint/United, testified that the state jurisdiction should be responsible for funding the difference between the federal benchmark affordable price and the rate the State allows carriers to charge for the supported services. Mr. Harper also stated that there are other factors such as adjusting intrastate access rates to interstate levels and exogenous cost treatment. (Harper, Tr. at 2633-21 to 2633-22).

41. Other parties support a percentage surcharge assessment in various forms. AT&T's proposed KUSF would be funded by a surcharge on end user retail service revenues. (Rhinehart, Tr. at 3118-14). MCI proposes is that the KUSF be funded on a percentage of net intrastate common carrier revenues. (Klaus, Tr. at 3121-9).

42. CompTel proposes a quasi-sales tax on the customer's bill for all telecommunication service in lieu of having a surcharge on toll minutes. (Ensrud, Tr. at 3116-17). The quasi-sales tax should be limited to retail services only. (Ensrud, Tr. at 3116-34).

43. KCTA states that a preferable approach would be to impose a uniform percentage contribution based upon the value added by each industry participant. (Kravtin, Tr. at 2455-11).

44. KC Fiber proposes that each company's share of overall intrastate revenues equal its share of overall contributions to the KUSF. (Hollingsworth, Tr. at 3114-4). "The best formula would rely on the relative intrastate revenues of each carrier." (Hollingsworth, Tr. at 3114-5). However, in its brief, KC Fiber stated that the Commission should adopt SWBT's proposal which is "imposing the surcharge on billed toll MOU, not on retail revenues." (KC Fiber and MHT Post-Hearing Brief at 8).

45. The Wireless Providers argue that the burden of financing the KUSF be distributed among all Kansas telecommunications providers, including LECs, through an industry wide surcharge. (Wireless Providers Post-Hearing Memorandum at 2-3).

46. CURB proposes that contributions to the KUSF be based on gross intrastate company revenues earned in Kansas. (Ostrander, Tr. at 2684-32).

47. Staff proposes that the most equitable basis for contributions to the fund is intrastate retail telecommunications revenues. These revenues include local service, directory assistance, coin, private line, intrastate long distance, and an estimate of cellular revenues. (Lammers, Tr. at 2966-14).

48. Mr. Lammers, witness for Staff, testified the assessment on local revenues is an advantage for the ILECs since most ILECs have low rates and it

fulfills the mandate in the Kansas Act. By participating at the 14.1 percent level, the ILECs along with SWBT and Sprint/United could avoid having to remit the funds to the KUSF. (Lammers, Tr. at 2966-16).

49. During the August 12, 1996 hearing, Mr. Krehbiel, witness for Columbus, and Mr. Mikesell, witness for State Independent Alliance, each modified his testimony after reviewing Mr. Lammer's proposal by stating that it is a generally acceptable alternative to their testimonies. (Krehbiel, Tr. at 2525-2526; Mikesell, Tr. at 2587-2588).

50. At the August hearing, Mr. Cooper, witness for SWBT, testified that he largely agrees with Staff's KUSF. (Cooper, Tr. at 2152). Mr. Cooper also stated that he recommends the Commission either adopt SWBT's proposal or Staff's proposal "because of their similarities." (Cooper, Tr. at 2151-1, 2153-2154).

3. <u>SIZE OF THE FUND</u>

51. Mr. Lammers, Staff's witness, testified the KUSF needs to recover $111.6 million which is 14.1 percent of the present intrastate revenues. (Lammers, Tr. at 2966-14).

52. Some parties were not in a position to quantify the appropriate size of the KUSF at this time. (Klaus, Tr. at 3121-8; Rhinehart, Tr. at 3118-16; Ostrander, Tr. at 2684-31). CURB stated "the fund size should be whatever falls out of a reasonable policy which will help ensure universal service, eliminate rate shock for all customers including rural customers and provide for a Lifeline program."

(Ostrander, Tr. at 2684-31). Other parties stated the fund should be as small as possible. (Krehbiel, Tr. at 2528-5).

53. Mr. Klaus, MCI's witness, testified that ideally both the combined KUSF and the yet-to-be determined federal universal service fund would be sized to recover the difference between the TSLRIC of providing local exchange service and the nationwide average local exchange rate of $18.00. (Klaus, Tr. at 3121-8). However, MCI did not explain how to reconcile this approach with HB 2728.

4. LIFELINE SERVICE PROGRAM

54. Staff proposes to apply the criteria currently required of qualification for Link-Up Kansas and that the program be phased in over the same three year period as a local service increase to avoid a reduction followed by a rate increase. (Staff Post-Hearing Brief at 20). Staff asserts the programs can be funded by growth in access lines. (Lammers, Tr. at 2966-25 to 2966-26).

55. SWBT generally agrees with Staff's Lifeline proposal with one exception. The Lifeline subsidy should be funded on a competitively neutral basis by all telecommunications providers in the state, the same as is required for universal service support. (Mah, Tr. at 2261-14). SWBT cited Section 9(b) of the State Act. SWBT also recommends that the Lifeline program be administered by the administrator of the KUSF.

56. CURB states that enrollment of Lifeline and Link-Up customers should be proactive and virtually automatic. The carriers should work with Department of Social and Rehabilitation Services (SRS) to establish a data base that identifies

individuals eligible for Lifeline and Link-Up and allows for expedited or automatic enrollment of these individuals. (Ostrander, Tr. at 2684-54).

5. KANSAS RELAY SERVICES, INC. (KRSI)

57. Columbus argues that funding for KRSI and the telecommunications devices for individuals with disabilities should not be handled through the KUSF. (Krehbiel, Tr. at 2528-7). CURB states that funds for KRSI and KUSF should not be commingled and that separate books should be maintained. Technically CURB is recommending two separate funds, two separate sets of books, and two separate bank accounts, although there could be one common independent administrator. (Ostrander, Tr. at 2684-34).

58. Staff proposes that the KUSF include KRSI. However, Staff recommends that the KUSF only collect the funding for KRSI and the equipment fund and not administer those programs. (Lammers, Tr. at 2966-7).

B. FORM OF REGULATION

1. PRICE CAP BASKETS

59. Section 6(e) of the State Act specifies three baskets of services for companies electing price cap regulation: a) residential and single-line business, including touch-tone; b) switched access services; and c) miscellaneous services basket. Section 6(f) requires the Commission determine the price cap adjustment formula for Baskets One and Three and any sub-categories within those baskets. The adjustment formula for Basket One is to be applicable after December 31, 1999, and for Basket Three it applies after December 31, 1997.

a. SUB-CATEGORIES WITHIN BASKETS

60. Although the State Act authorizes the creation of sub-categories within Baskets One and Three, it does not require the creation of sub-categories. In order to address concerns that falling prices for certain basic local services in Basket One might be offset with dramatically rising prices for other basic services, SWBT proposes 16 sub-caps for Basket One services (eight rate groups for residential service and eight for single-line business service). Under this proposal SWBT states the prices in each rate group would not rise more than the general level of inflation as measured by the Consumer Price Index Less Food and Energy (CPILFE). (Brown, Tr. at 1840-9 to 1840-10, 1840-24).

61. Staff testified sub-categories within Basket One for different rate groupings would be appropriate. (Matson, Tr. at 2691-15). Staff also proposed one sub-category (multi-line business, PBX and PLEXAR lines) in Basket Three, miscellaneous services to accommodate Staff's rebalancing proposal. (Matson, Tr. at 2691-16).

62. SWBT opposes Staff's proposal. SWBT states it would be willing to recover the residual $8-10 million in Staff's revenue neutral calculation from Basket Three services generally rather than from the KUSF. (SWBT Brief at 7).

63. AT&T recommends the creation of a limited number of sub-categories of services or elements in Basket Three. Factors considered in establishing the sub-categories would include:

a) basic network functions (BNFs) versus end user services;